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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,677	11/13/2003	Christopher W. Kempin	RSW920030198US1	9089
7590 Gerald R. Woods IBM Corporation T81/503 PO Box 12195 Research Triangle Park, NC 27709			EXAMINER PHAN, TUANKHANH D	
			ART UNIT 2109	PAPER NUMBER
			MAIL DATE 05/11/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/712,677

**Applicant(s)**

KEMPIN ET AL.

**Examiner**

TuanKhanh Phan

**Art Unit**

2109

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Childress et al. (US Pub. 2004/0010716).

Regarding claims 1, 7, 10 and 11, Childress et al. teach a system and a method for monitoring the integrity of a plurality of endpoints and a communication channel between the plurality of endpoints and a gateway device (abstract; ¶ 032), comprising: an endpoint having a monitoring application for monitoring the integrity of the endpoint (abstract, "health monitoring agent"), the monitoring application at a predetermined time sending a periodic signal through a communication channel to the gateway device indicating the integrity of the endpoint (¶ 092; ¶ 112, "predetermined time intervals"); a server having a centralized database listing the status of the endpoint (abstract); and a

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gateway device in communication with the server and with the endpoint (§ 112), the gateway device including a monitored list listing the status of the endpoint in communication with the gateway device (§ 096; § 099, the gateway device being capable of selectively sending a state change message to the server if the gateway device fails to receive a periodic signal from the endpoint and if the status of the endpoint is either in a Healthy state (§ 096), which indicates the endpoint is functioning properly, or a Trouble state (§ 096, which indicates the endpoint has failed once, the gateway device further being capable of not sending the state change message to the server upon a failure to receive the periodic signal from the endpoint if the status of the endpoint is in a Removed state (§ 096, "Fatal").

Regarding claim 2, Childress et al. teach the system of claim 1, wherein the periodic signal is sent through a data channel connecting the endpoint and the gateway (abstract; § 112; § 114; § 115).

Regarding claim 3, Childress et al. teach the system of claim 1, wherein the status of the endpoint is set to the Trouble state when the gateway device fails to receive the periodic signal from the endpoint and the status of the endpoint is in the Healthy state (§ 096, "Harmless"; § 117, "Normal").

Regarding claim 4, it is inherent to one of ordinary skill in the art that Childress et al. teach the system of claim 1, wherein the status of the endpoint enable to set for removal when the gateway device fails to receive the periodic signal from the endpoint once the status is update from Critical state to Fatal state.

Regarding claim 5, Childress et al. teach the system of claim 1, wherein the centralized database has a plurality of entries (abstract; ¶ 017), each entry being associated with one endpoint, the status of the endpoint (abstract), and the gateway device associated with the endpoint (abstract; ¶ 092).

Regarding claim 6, Childress et al. teach the system of claim 1 further comprising a timer (¶ 119), wherein the timer is associated with the endpoint.

Regarding claim 8, Childress et al. teach the method of claim 7, further comprising the steps of: determining if a timer associated with the endpoint has expired (¶ 119, "exceeded"; if the timer has expired, determining the status of the endpoint associated with the timer (Table 2); if the status of the endpoint is the Healthy state (¶ 096), setting the status of the endpoint to the Trouble state; if the status of the endpoint is the Trouble state (¶ 096), setting the status of the endpoint to the Removed state (¶ 096, "Fatal"); and resetting the timer (¶ 094).

Regarding claim 9, Childress et al. teach the method of claim 7, further comprising the steps of "receiving a configuration signal from the endpoint (¶ 111); determining if the endpoint is listed in the monitored list (¶ 111-115); and if the endpoint is not listed in the monitored list, adding the endpoint to the monitored list and transmitting a configuration signal to the server (abstract; ¶ 111-115).

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### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Burton et al., US Pub. 2004/0010586. "Apparatus and Method for Distributed Monitoring..." Jan. 15, 2004.

Bereiter, Thomas W. US Pat. 5,875,306. "Reconfiguring Computer Resources..." Feb. 23, 1999.

Jarriel et al. US Pat. 6,279,034. "Distributed Monitor Timer Service for Use in a Distributed Computing Environment." Aug. 21, 2001.

Nurenberg et al. US Pat. 6,181,697. "Method for a Unicast Endpoint Client..." Jan. 30, 2001.

Silverstein et al. US Pat. 5,758,084. "Apparatus for Parallel Client/Server Communication..." May 26, 1998.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TuanKhanh Phan whose telephone number is 571-270-3047. The examiner can normally be reached on Mon to Fri, 9:00am to 5:00pm EST, 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Assouad can be reached on 571-272-2210. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

tkp

A handwritten signature in black ink, appearing to read "Patrick Assouad", with a stylized flourish at the end.

**PATRICK ASSOUD  
SUPERVISORY PATENT EXAMINER**